

AKHTAR ALI

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. D.S. Matya, Advocate for the petitioner.

Mr. Zorawar Singh Chauhan, DAG, Haryana.

VIVEK PURI,J. (ORAL)

Petitioner has assailed the order dated 25.8.2021 passed by the Court of learned Additional Sessions Judge, Gurugram vide which the application of the petitioner for declaring him juvenile has been dismissed.

Learned counsel for the petitioner contends that the occurrence took place on 15.05.2021 and the FIR bearing No.151 dated 16.05.2021 has been registered at Police Station Sector-56, Gurugram with regard to the offence under Sections 366/366-A IPC on the following date. During the course of investigation, the offence under Section 6 of POCSO Act has also been added. The petitioner is facing trial in the Court of learned Additional Sessions Judge. During the pendency of the proceedings in the trial Court, the petitioner had moved an application for declaring him juvenile by placing on record the birth certificate Annexure A-1 which is in Bangla language. The date of birth of the petitioner is 10.02.2006 and the same has been recorded in the birth certificate Annexure A-1. Inadvertently, the translated copy of the birth certificate could not be produced on the record of trial Court and consequently, the date of birth in the birth certificate has been misread as 20.02.2001 and the petitioner was held to be more than 19 years old. The certificate Annexure A-1 was got issued in the year 2006. Subsequently, the parents of the petitioner have procured a birth certificate issued at a later stage in english language. The certificate copy whereof Annexure P-2 indicates the

10.02.2006 in the certificate Annexure A-1 issued by Bairhatta Gram Panchayat and the same has been issued on the basis of information taken from record of birth. By considering birth certificate Annexure P-2, the age of the petitioner comes to 15 years and 03 months at the time of occurrence.

During the course of hearing, it has also been pointed out that the translated copy of the birth certificate Annexure A-1 which is in Bangla language was not submitted in the trial Court. Even, the birth certificate Annexure P-2 which was procured at a later stage could not be placed on record of the trial Court.

The plea of the petitioner for declaring juvenile has been declined allegedly on the basis of misreading of date of birth in the certificate which is in Bangla language. However, the certificate copy whereof as Annexure P-2 was never placed on record of the trial Court. Consequently, the impugned order is liable to be set aside and the matter is liable to be re-appreciated and evaluated by the learned trial Court.

In these set of circumstances, the impugned order dated 25.08.2021 is set aside. The matter is remitted to the learned trial Court to again look into the plea of juvenility as raised by the petitioner in accordance with law after affording an opportunity to the parties to produce relevant material in this regard. The necessary exercise in this regard may be carried out expeditiously.

In view of the above, the present petition stands disposed of.

13.09.2022
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No